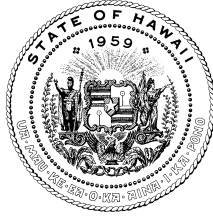


LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

**PETER T. YOUNG**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
DEPUTY DIRECTOR - LAND

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ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
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BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**MINUTES  
MAUI/LANAI ISLAND BURIAL COUNCIL MEETING**

**DATE:** THURSDAY, JANUARY 25, 2007  
**TIME:** 9:00 A.M.  
**PLACE:** COUNTY OF MAUI  
PLANNING DEPARTMENT  
KAULANA PAKUI BUILDING 1<sup>ST</sup> FLOOR  
250 S. HIGH STREET  
WAILUKU, HI 96793

**ATTENDANCE:**

**Members:**

Charles Maxwell, Chair  
Dana Naone Hall, Vice-Chair  
Leslie Kuloloio  
William Frampton  
Edward Kaahui  
Scott Fisher  
Pua Paoa  
Keeaumoku Kapu

**Absent:**

Kema Kanakaole (unexcused)  
Mei Lee Wong (excused)

**Staff:**

Kawika Farm, Clerk Stenographer II  
Vince Kanemoto, Deputy Attorney General  
Melissa Kirkendall, Maui Archaeologist  
Hinano Rodrigues, Cultural Historian  
Jenny Pickett, Maui Assistant Archaeologist

**Guest:**

Mike Dega	Tim Langley
Rob Hoonan	Lisa Rotunno-Hazuka
Roderick Fong	Dean Frampton
Dave Ward	Bryan Troell
Stuart Matsunaga	Kamanao Mills
Lauren Morawski	Uilani Kapu

Verna Podlewski  
Yarrow Flower  
Ryan Churchill  
Thorn Abbott

Clifford Naeole  
Teri Freitas Gorman  
Kalani Schmidt

## **I. OPENING REMARKS**

Maui/Lanai Islands Burial Council (MLIBC) Chair, Charles Maxwell called the meeting to order at 9:18 am and called on Keeaumoku Kapu to give a *pule wehe*.

## **II. APPROVAL OF MINUTES**

**December 14, 2006**

**Dana Hall moved and Scott Fisher seconded, “to approve the minutes of the December 14, 2006 meeting of the Maui/Lanai Islands Burial Council.”**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

## **III. BUSINESS**

### **A. INADVERTENT BURIAL DISCOVERY AT GRAND WAILEA HOTEL, PAEAHU AHUPUAA, MAKAWAO DISTRICT, ISLAND OF MAUI, TMK: 2-1-08: PORTION 109**

**Information/Recommendation:** Update on inadvertent discovery of multiple primary burials as well as human remains encountered in disturbed contexts.

Lisa Rotunno-Hazuka of Archaeological Services Hawaii (ASH) introduced herself and Robert Hoonan, the director of facilities and management for the Grand Wailea Hotel. L. Hazuka said burials were encountered during excavation of a large hole to install a multi-ceptor unit. L. Hazuka said the excavated hole currently measured 60 feet in length by 30 feet in width by 12 feet in depth.

*L. Hazuka passed out two documents, a summary of burials and a plan view map.*

L. Hazuka said ASH had identified a total of 12 individuals which were previously displaced within the fill layer of the excavated hole and through screening of back dirt piles. D. Hall asked if the 12 individuals were an increase from 10 individuals which was reported at last month’s MLIBC meeting to which L. Hazuka answered yes. L. Hazuka said there were 25 stock piles of dirt which ASH needed to screen.

(Pua Paoa and Edward Kaahui arrived at 9:19 pm)

L. Hazuka said further excavation of the multi-ceptor hole ceased upon the discovery of the (7) in situ burials and the (4) probable in situ burial features. L. Hazuka said R. Hoonan had, at the request of the council, been researching alternative solutions to comply with the county mandate of installing grease interceptors. L. Hazuka said ASH

did not detect any previous disturbance to the in situ burials within the excavated hole for the multi-ceptor which were identified at the depth of 12 feet. D. Hall asked if there may be subsurface burials, around depths of 12 feet that had been previously disturbed in other adjoining areas outside of the multi-ceptor hole, to which L. Hazuka answered yes. L. Hazuka said ASH was in the process of completing screening of the remaining back dirt piles.

R. Hoonan said extensive research went into finding an alternative to the multi-ceptor as a result of comments and recommendations the council had shared at previous meetings. R. Hoonan said a letter was written and submitted to the county on November 17, 2006, formally requesting an approval to install grease removal devices (GRDs) in lieu to the multi-ceptor. R. Hoonan said the county understood the multi-ceptor project at the Grand Wailea was being abandoned and that alternatives were being sought. R. Hoonan said the county was extremely reluctant to commit to the Grand Wailea's proposal of installing GRDs. R. Hoonan said he would aggressively pursue non-invasive alternatives that required minimal excavations. R. Hoonan did not have anything definitive to share pertaining to the county's acceptance of installing GRDs and said he would update the council when he had further information. R. Hoonan said he prepared the owners of the Grand Wailea that the multi-ceptor project would not move forward and would ultimately be abandoned. R. Hoonan said the owners of the Grand Wailea were accepting and understanding of the circumstances involved with the multi-ceptor project. C. Maxwell complimented the effort and work R. Hoonan exhibited in finding an alternative to the multi-ceptor.

D. Hall asked if R. Hoonan was [involved] with the Grand Wailea during its' construction in the 1980s. R. Hoonan said he got involved with the Grand Wailea towards the ending of construction in 1991. D. Hall asked R. Hoonan if he was aware that a number of burials were disinterred, relocated and reburied through a memorandum of agreement with OHA (Office of Hawaiian Affairs) to which R. Hoonan answered yes. D. Hall was very thankful R. Hoonan was still with the Grand Wailea because R. Hoonan was able to convey to the landowners, the sensitive nature involved with preserving the burials. D. Hall thanked R. Hoonan for all his work and effort with the multi-ceptor project.

Leslie Kuloloio wanted the State Historic Preservation Division (SHPD) to update its records and include as much information as possible pertaining to archaeology, burials and historic sites, dating from Honokahua, to the establishment of the burial council, to present day. L. Kuloloio wanted SHPD's record to reflect what transpired with the Grand Wailea so the council could be better informed when making future decisions.

**B. INADVERTENT BURIAL DISCOVERIES AT THE DEMOLITION AND CONSTRUCTION SITE OF THE FORMER KAPALUA BAY HOTEL, NAPII 2-3 AHUPUAA, LAHAINA DISTRICT, ISLAND OF MAUI, TMK: 4-2-04: 27, 28, AND 29.**

**Information/Recommendation:** Discussion on inadvertent discovery of multiple primary burials, as well as human remains encountered in disturbed contexts.

Ryan Churchill of Maui Land and Pineapple (ML&P) introduced himself and said ML&P was representing the owners of the Kapalua Bay Hotel. R. Churchill introduced Teri Gorman of ML&P, Tim Langley of RCCD, Bryan Troell of Nordic PCL, Mike Dega the principal investigator for Scientific Consultant Services (SCS) archaeology and Lauren Morawski of SCS.

M. Dega said SCS conducted an archaeological inventory survey (AIS) at Kapalua in 2005 for a project area of about 25 acres. M. Dega said multiple test trenches were excavated and did not yield any prehistoric deposit or burials. M. Dega said SCS consulted with the contractors for Kapalua regarding the demolition of existing buildings, which would be followed by construction of new buildings. M. Dega said SCS developed an archaeological monitoring plan which had been submitted and accepted by the state. Prior to submittal of the monitoring plan, M. Dega said SCS had an agreement to do an addendum to the AIS. M. Dega said the addendum for the AIS was supposed to have started prior to demolition work and completed throughout demolition of the existing buildings. M. Dega said SCS completed the addendum for the AIS during April and August of 2006. M. Dega said the addendum work for both April and August were negative.

D. Hall wanted to know when the addendum survey had been conducted. M. Dega said the addendum work was conducted in April of 2006. D. Hall wanted to know the number of backhoe trenches dug during the addendum survey. M. Dega believed seven trenches were excavated at various locations on the project area. M. Dega said SCS did not conduct the addendum work until the Kapalua Bay Resort had closed. M. Dega said the addendum work was conducted in grassy areas which were not covered by buildings. M. Dega said demolition started upon the completion of the addendum work carried out in April. M. Dega said SCS monitored all demolition work. M. Dega said SCS conducted additional testing near the future construction sites for building 1 and building 3 in August of 2006. M. Dega said SCS excavated 4 test trenches in the areas of building 1 and 3 which resulted in negative findings. M. Dega said SCS tested three backhoe trenches excavated to a depth of 10 feet, in the area of building 5 in November of 2006, which also yielded negative findings.

M. Dega said the first human remains [a cranium] were identified on December 13, 2006 near the location of building 5. C. Maxwell wanted to know if the cranium was part of an in situ burial. M. Dega said the cranium was not in situ and was disturbed during excavation. M. Dega said the cranium was obviously displaced and it was unknown whether the rest of the burial was in situ.

D. Hall wanted to know if SCS had the results of the addendum work for the AIS. M. Dega said the addendum work had not yet been published. D. Hall said SHPD wrote a letter to SCS pertaining to the acceptance of the initial AIS and requested an addendum for the subject AIS be produced. M. Dega said SHPD had requested an addendum for the AIS and the subsequent data would be included in the monitoring report.

D. Hall asked if an archaeological monitor was on site at Kapalua, at the time the cranium was discovered to which M. Dega answered no. D. Hall wanted to know why a monitor was not on site during discovery of the cranium. M. Dega said he was not on Maui at the time and was told the area where the cranium was identified had been previously monitored several times. M. Dega said SCS focused on monitoring primary and secondary depository areas. M. Dega said the contractor stopped work upon discovery of the cranium. D. Hall said it was fortunate the contractor saw the cranium at the top of the back dirt pile. D. Hall said the absence of an archaeological monitor on site at Kapalua was a violation of the monitoring plan. M. Dega said SCS focused on monitoring primary and secondary deposits. M. Dega said the monitor did not think the area where the cranium was identified was a primary or secondary deposit, which was why the monitor was not in the area during discovery of the cranium. D. Hall disagreed with M. Dega's rationale of why an archaeological monitor was not present during discovery of the cranium. D. Hall wanted to know if the archaeological monitor assigned to the Kapalua Bay project was familiar with sand dune burials to which M. Dega answered yes. D. Hall said the archaeological monitor did not appear to be familiar with sand dune burials during discussions at a recent site visit. D. Hall asked if the cranium was discovered during trenching for a sewer manhole to which M. Dega answered yes.

D. Hall asked if the second burial was discovered during mass excavation to which M. Dega answered yes. D. Hall said the monitoring plan, titled: *An Archaeological Monitoring Plan for Phase I Demolition Activities of Three Contiguous Parcels, December 2005*, clearly stated in the title and within the text that the monitoring plan was only to cover Phase I Demolition Activities. D. Hall said mass excavation and installations of infrastructure were not covered by the monitoring plan. D. Hall said the monitoring plan acknowledged the presence of undisturbed sand dunes throughout majority of the Kapalua Bay property and the distinct possibility of encountering native Hawaiian burials. D. Hall said the monitoring plan mentioned the Honokahua burial site, but failed to reference the fact that burials could and were found at depths from 3-15 feet. D. Hall reiterated the fact that the monitoring plan only covered demolition activities and did not cover any work after demolition. D. Hall said archaeological monitors served to fill the gap between the operators of heavy machineries and surface activities. D. Hall said archaeological monitors are supposed to identify human skeletal remains if and when they were displaced or disturbed. D. Hall asked if there was a dedicated monitor for each piece of sand disturbing equipment. M. Dega was not sure if there was a dedicated monitor for each piece of sand disturbing equipment and said he needed to look into the matter. C. Maxwell asked if William Fortini was the archaeological monitor initially assigned to the Kapalua Bay project. M. Dega acknowledged that W. Fortini was the archaeological monitor assigned to the Kapalua project.

Hinano Rodrigues, cultural historian for SHPD said he and SHPD's assistant archaeologist for Maui, Jenny Pickett observed five heavy equipment machines and only one person monitoring. H. Rodrigues said the monitor was observed running between two heavy machineries. H. Rodrigues said the distance between the two machines was so great that it was not possible for a person to accurately identify human

skeletal remains if disturbed or displaced. H. Rodrigues said he discussed his observation with SHPD's staff archaeologist and was advised that standard archaeological procedures required one archaeological monitor per heavy equipment. Melissa Kirkendall, SHPD's lead archaeologist for Maui concurred with what was shared with H. Rodrigues. M. Kirkendall said she informed M. Dega of the need for one monitor per piece of heavy equipment during a site visit with other SHPD staff and a member of the MLIBC. M. Kirkendall said she received a call from R. Churchill at which time she informed him of the need to have one monitor per piece of heavy equipment.

D. Hall said identifying human skeletal remains during mass excavation was a difficult task in its self and did not think requiring one archaeological monitor per heavy piece of equipment was an overly burdensome requirement. D. Hall said having a dedicated monitor per piece of heavy machinery at least afforded the opportunity to identify human skeletal remains.

C. Maxwell was frustrated with SCS because he felt the council was dealing with a similar predicament which had happened on several other occasions over the past years. C. Maxwell was frustrated because ultimately it was the *iwi* that continued to be inappropriately treated. L. Kuloloio thought better communication needed to occur between SHPD, the archaeological firms, the burial council and the developers. L. Kuloloio did not like projects, particularly large projects pushed in an expedited manner. L. Kuloloio felt projects that were rushed often resulted in *kapulu* work. L. Kuloloio asked about the 27 test trenches. D. Hall said 20 trenches were excavated during the AIS with the results included in the report. D. Hall said seven trenches were excavated as additional work for the addendum to the completed AIS. D. Hall said the addendum work was not yet published. L. Kuloloio asked if sand layers were reached during excavation of the test trenches, to which M. Dega answered yes.

Scott Fisher asked if it was standard practice to have one archaeological monitor per heavy equipment. M. Dega said one monitor is usually assigned per machine when excavating in sandy areas. M. Dega said the number of machines an archaeologist could monitor also depended on the type of sediment being excavated. S. Fisher wanted to know why SCS only had one archaeologist monitoring five machines. M. Dega was not sure and speculated the assigned field archaeologist probably determined not all the machines were in sand matrixes. M. Dega said he needed to verify the reasoning behind the field archaeologist's determination. C. Maxwell wanted to know why archaeological monitoring was not paid greater attention given the close vicinity the project area was located from Honokahua.

L. Kuloloio said the monitoring plan covered Phase I Demolition only. L. Kuloloio said the monitoring plan did not cover grubbing, grading, excavation and proposed construction work. L. Kuloloio wanted to know if there was a plan or letter which approved the work following the Phase I Demolition. M. Dega said he needed to read the monitoring plan to accurately determine the extent of work that was covered. M. Dega said there were letters that pertained to grading, grubbing and demolition. L. Kuloloio thought the scope of work at Kapalua warranted much more than one

archaeological monitor. D. Hall addressed M. Dega and said he should comment on anything he disagreed with during discussion of the current agenda item. D. Hall felt an accurate timeline of what occurred needed to be constructed so all parties involved would know where the situation stood and what would be the best way to move forward. M. Dega said the original archaeologist assigned to Kapalua was no longer involved with the project. M. Dega said SCS had a new team of archaeologist at Kapalua with two field supervisors one of which was L. Morawski.

L. Kuloloio recommended the council be afforded the opportunity to evaluate the credentials, pertaining to degrees obtained and years of experience in the field, of all archaeologists assigned to projects that came before the council for review. C. Maxwell felt ML&P needed to be aware of the qualifications an archaeological firm had before deciding whether or not to contract the firm. R. Churchill was in agreement with the council and was willing to work with the state on resolving all pertinent issues. R. Churchill said ML&P knew where the sand on the property was and admitted the area should have been monitored better. R. Churchill said ML&P was partly at fault for their lack of initiative to insure proper procedures were being followed by the archaeological firm. Upon discovery of the burial, R. Churchill said he had spoken with M. Kirkendall and was informed about the lack of adequate monitors at the project area. R. Churchill said he spoke with M. Dega and worked with SCS to bring in the current team of field archaeologists.

M. Dega said there were two primary burials at Kapalua. D. Hall asked if burial 1 consisted of the cranium identified on the top of the back dirt pile to which M. Dega answered yes. After a meeting between SCS and SHPD, L. Morawski said excavation of a manhole pit near the location of burial 1 proceeded, at which time in situ remains were identified in the side wall of the trench. L. Morawski said the in situ remains appeared to be of an articulated in situ burial. L. Morawski believed the remains to be of an adult male. L. Morawski said the all the sand excavated for the manhole pit had been screened and any fragmented remains identified during screening had been collected. L. Morawski said the burial appeared to be intact within the side wall of the trench and only the cranium seemed to have been impacted from excavation. D. Hall asked if 90% of the burial was still interred. L. Morawski did not know the exact percentage, but acknowledged that majority of the burial seemed to be intact within the side wall of the trench. T. Langley identified the location of burial 1 on a display board. T. Langley said burial 1 was near a property line.

L. Morawski said burial 2 was identified during mass excavation. L. Morawski said SCS monitored the area in which burial 2 was located and inventoried any remains identified on the surface as well as the remains of burial 2. L. Morawski identified the approximate location of burial 2 on a display board. D. Hall asked if burial 2 was located in the area of building 5 to which L. Morawski answered yes. L. Morawski believed the remains from burial 2 was of at least two individuals. D. Hall asked if an in situ portion of burial 2 was identified to which L. Morawski answered yes. D. Hall thought charcoal staining was observed in the area of burial 2 during a site visit. J. Pickett recalled observing some charcoal stainings. D. Hall asked if charcoal flecking or

charcoal stained sand was observed. J. Pickett said she observed both charcoal flecking and charcoal stained sand. D. Hall wanted to know if the charcoal was part of a burial pit or of a cultural layer. L. Morawski said she did not observe any charcoal when she constructed a plan view map of burial 2. L. Morawski said she observed some light grey sand on the surface and a dark colored soil near the burial. L. Morawski thought the charcoal flecking could have been blown away by the wind.

L. Kuloloio wanted to know if a topographical study was conducted during and upon completion of the demolition work of the old Kapalua Bay Hotels. R. Churchill said ML&P had an accurate topographical map of the area before demolition work had started. L. Kuloloio wanted to know if a topographical map had been brought to the meeting which could be laid over a plan view map of the project area. L. Kuloloio said a topographical map would help him better understanding what the land looked like. T. Langley said there was a topographical map of the project area prior to demolition of the old Kapalua Bay Hotels. L. Kuloloio asked to see the topographical map. T. Langley said he did not have the topographical map on hand but thought one could be provided to the council at a future time. L. Kuloloio wanted to know if drilling at the project area were for the foundations of future buildings. T. Langley said drilling was to determine exactly what was subsurface.

K. Kapu asked who the contractor for the project was. T. Langley said the contractor was Nordic PCL. R. Churchill said Kapalua Bay was in partnership with another party that engaged the contractor Nordic PCL to handle all construction work. K. Kapu said private contractors that took on large projects were often confined to time constraints. K. Kapu thought the pressure of having to meet deadlines could have funneled down onto the archaeologists. K. Kapu was wondering if certain steps or phases were rushed and who should shoulder the responsibility of why certain inadequacies occurred.

D. Hall wanted to know if the scattered in situ remains were being collected. L. Morawski said the scattered remains were being collected from approximately 10 different locations. L. Morawski said more remains were being collected as archaeologists continued to screen sand. D. Hall wanted to know the minimum number of individuals identified in the location of burial 2. L. Morawski said there were at least two individuals, but mentioned more than two individuals may be present.

L. Kuloloio wanted to know if construction was currently occurring at Kapalua Bay to which L. Morawski answered yes. D. Hall said no construction was occurring in the specific areas where human skeletal remains were identified. T. Langley said no work was taking place in the area where building 5 was proposed to be constructed. T. Langley said all construction work in sandy areas had been restricted. T. Langley said construction work was currently taking place in areas comprised of undisturbed clay soils and rocks. D. Hall pointed out that clay pit burials had been encountered on numerous occasions on Maui. D. Hall said burials were found in clay matrixes as well as sand matrixes at the Grand Wailea. L. Kuloloio said burials were also found in clay matrixes on the property of the Ritz Carlton Hotel. D. Hall wanted to be clear that working in clay matrixes did not exclude the possibility of encountering burials.



T. Langley said a request was made to have a monitor for each piece of heavy equipment. T. Langley said SCS had a team of archaeologists, some of which were monitoring, some of which were screening and some of which were conducting additional exploratory work. T. Langley said the archaeologists were not doubling up on jobs. D. Hall wanted to know if SHPD had approved further excavations in the area of burial finds 1 and 2 for the purpose of conducting additional field work. M. Kirkendall answered yes. T. Langley said the maximum depth needed for construction of buildings 1 and 2 had been reached and excavation was no longer occurring in the area of buildings 1 and 2.

D. Hall said the MLIBC strongly supported additional testing in the areas of burial finds 1 and 2 to determine if additional burials may be present and/or if a cultural layer was in the area. D. Hall asked if building 5 had the correct grade for construction to which T. Langley answered yes. T. Langley said burial 1 had been discovered near an existing sewer line. T. Langley said there were plans to install a new sewer line in place of the old sewer line. D. Hall wanted to know if the new sewer line could be realigned in order to preserve burial 1 in place to which T. Langley answered yes. William Frampton asked T. Langley to identify the location of burial 1 on a display board. D. Hall felt there was a consensus amongst council members to preserve the burials in place and said an explanation needed to be provided to the council by the representatives of the Kapalua Bay Hotel in the event the burials could not be preserved in place.

K. Kapu asked M. Dega to identify the exact location of burial 1.

*The exact location of burial 1 was not known. Three approximate locations for burial 1 were identified, one location pointed out by T. Langley, one location pointed out by M. Dega and one location pointed out by L. Morawski.*

L. Kuloloio suggested the representatives for the Kapalua Bay Hotel bring their project engineers to the next meeting. H. Rodrigues was concerned because a large amount of earth material had been moved and stored off the project area. H. Rodrigues was not convinced the material stored off the project area did not contain *iwi* and requested the council's recommendation on how the stock pile should be treated. It was recommended by the council that the stock pile of earth material be screened. R. Churchill said archaeologists would be assigned to assess the various stock piles. H. Rodrigues asked R. Churchill to keep him apprised of all developments at Kapalua. K. Kapu wanted to know how many archaeologists were on site at Kapalua. T. Langley said there were five archaeological monitors on-site at Kapalua. K. Kapu asked the representatives of Kapalua if they would hire more archaeologists. T. Langley said Kapalua was willing to hire as many archaeologists as it took to adequately address archaeological field work. L. Kuloloio wanted the stock pile to be thoroughly screened so that all *iwi* which may be present is collected. T. Langley said the stock pile being stored off the project area was enormous in size and would be a monumental task. C. Maxwell said screening the pile was a task that needed to be done.

**D. Hall moved and W. Frampton seconded, “to move [the second agenda item under] item E up in place of item C, so that [the second agenda item under] item E becomes item C and item C becomes item D on the agenda.”**

**VOTE: ALL IN FAVOR. The motioned carried unanimously.**

**Inadvertent Discovery of Human Remains During Archaeological Monitoring of a Diversion Ditch in the Kula Residential Lots of the Waiohuli Subdivision, Waiohuli Ahupuaa, Kula District, Island of Maui, TMK: 2-2-02: 14 POR.**

**Information/Recommendation:** Discussion on inadvertent discovery of human remains on Hawaiian Homes Land.

Stuart Matsunaga of the Department of Hawaiian Home Lands (DHHL) introduced himself and Kamanao Mills, also of DHHL and M. Dega of SCS, the hired archaeological consultant. M. Dega said a burial was identified on November 30, 2006, by Leigh Anne Ellison (archaeologist for SCS) in a diversion ditch during archaeological monitoring. M. Dega said Ian Bassford an archaeologist for SCS confirmed the inadvertent discovery to be human skeletal remains. M. Dega said all work in the immediate vicinity of the find ceased and contact was made with K. Mills of DHHL. M. Dega said the remains were found in an area with a previously identified site SIHP 50-50-10-3239. M. Dega said the site was initially identified in 1997 by Michael Kolb during an inventory survey. M. Dega said the site consisted of two features, a terrace and a small enclosure possibly used as temporary habitation. M. Dega said SCS conducted data recovery work of the area in 2004 and did not include SIHP 50-50-10-3239 as part of the data recovery report because the site had been severely disturbed. M. Dega said the site was in a heavily weeded area which reduced the visibility of surface features. M. Dega said two ribs, part of the tarsal and a fragmented portion of the skull were identified in a small push pile. D. Hall asked if there was an in situ portion of the burial to which M. Dega answered no.

*L. Kuloloio drew a map based on his site visit.*

L. Kuloloio said DHHL had plans to divert the natural flow of water in order to construct a proposed road corridor. L. Kuloloio said the diversion ditch was a huge project which served to address the 100 year flood plan. L. Kuloloio wanted to know why a previously known site, SIHP 50-50-10-3239 had been disturbed. D. Hall thought the previously identified site may have been reviewed by SHPD and determined to no longer be significant because the information obtained from the site was deemed sufficient and included in the AIS and/or the data-recovery report. D. Hall said it was unfortunate that a burial was encountered during grading of the area. L. Kuloloio said an archaeologist identified *iwi* in the roots of an upright tree which was knocked over during grading. L. Kuloloio thought more archaeological testing needed to occur to determine if there are additional burials in the area.

K. Kapu asked when SIHP 50-50-10-3239 had been documented. M. Dega said the site was identified in 1997. K. Kapu wanted to know if it was common for the state to

overturn a determination that a previously documented historic site was no longer significant. M. Kirkendall said a site's significance is assessed upon completion of the AIS at which time preservation commitments and mitigation comments are determined. K. Kapu wanted to know if there was a life span attached to sites which have been previously identified and documented, or if state sites were just given arbitrary numbers. M. Kirkendall said SHPD recognized the initial AIS to be inadequate for the particular area being discussed. M. Kirkendall said SHPD did ask for additional field work of the area. M. Dega said SCS conducted an AIS, an addendum to the AIS and data-recovery work. M. Dega said I. Bassford and L. Ellison followed a machine to see if archaeological features were present. M. Dega said the dense vegetation made monitoring very difficult. K. Kapu wanted to know who determined SIHP 50-50-10-3239 to be insignificant. M. Kirkendall said significance is generally assessed upon completion and SHPD's review of the AIS.

D. Hall asked L. Kuloloio if he thought the burial had an in situ component. L. Kuloloio did not think the individual was an in situ burial. L. Kuloloio thought stones in the area may have been piled to construct a wall. L. Kuloloio thought there may be other burials in the area.

D. Hall wanted to know what was being asked of the council. K. Mills said the burial would be kept in place for the time being. K. Mills said DHHL was regulated by NAGPRA (Native American Graves Protection and Repatriation Act) but that DHHL intended to follow normal state procedures regarding treatment of burials. D. Hall asked K. Mills if he was aware of a new Advisory Council which focused on historic preservation and policy regarding burials. D. Hall said the Advisory Council oversaw the implementation and interpretation of the National Historic Preservation Act (NHPA), Section 106. K. Mills was familiar with section 106 but was unfamiliar with the NHPA. D. Hall said the NHPA applied to federal projects and federally owned land. D. Hall said the Advisory Council for Historic Preservation adopted a policy that required federal agencies to identify and follow state or local law pertaining to burial sites, human remains and funerary objects.

D. Hall reiterated the necessity to have all ground altering activities monitored especially since sites may be present which may no longer be deemed significant. D. Hall suggested the possibility of revisiting certain areas within DHHL's proposed subdivision to insure sites and/or burials are adequately addressed. C. Maxwell said the area was full of historic sites. K. Mills said DHHL has been developing an educational program to inform lessees about historic sites and burials. K. Mills hoped the educational program would soon be implemented to place some of the responsibility of caring for historic sites and burials on lessees.

M. Dega said I. Bassford recorded four new sites during archaeological monitoring. D. Hall said the soil layers at Keokea and Waiohuli were very thin and burials were identified in thin soil layers. D. Hall thought more than one monitor may be needed in certain areas where large heavy equipment was operating.

S. Matsunaga said he needed to re-evaluate the plans for the diversion ditch and that greater sensitivity would be given to historic sites and burials. C. Maxwell was thankful that I. Bassford was one of the archaeologists assigned to the Waiohuli subdivision project. S. Matsunaga said I. Bassford was a very dedicated and thorough archaeologist.

*MLIBC Chair, C. Maxwell called a brief recess at 11:20 am. C. Maxwell reconvened the meeting at 11:30 am.*

**D. PROPOSED KAPALUA COASTAL TRAIL LOCATED IN THE AREAS OF KAPALUA, HONOKOHAU, HONOKAHUA, AND NAPILI 2 & 3 AHUPUAA, LAHAINA DISTRICT, ISLAND OF MAUI, TMK: (2) 4-2 and 4-3 VARIOUS Information/Recommendation:** Discussion on proposed coastal trail routing.

Yarrow Flower of ML&P introduced herself and passed out a copy of her PowerPoint presentation. Y. Flower said ML&P proposed to develop a coastal trail at Kapalua. Y. Flower said the trail would start at the public beach access at Kapalua Bay, stretch along the coastline and end at Honolua Bay. Y. Flower said she was at the meeting as part of the consultation process for the environmental assessment of the proposed project. Y. Flower also wanted the council's thoughts and/or recommendation on the portion of the coastal trail which ran through the Honokahua burial site. Y. Flower said there was an existing agreement for the Honokahua burial site which was signed on September 7, 1989 which covered site management and beach access. Y. Flower said an agreement for a preservation and conservation easement was signed on September 22, 1989 which covered public access to Honokahua Beach. D. Hall wanted to know if both agreements signed in September of 1989 contained language which delineated specific access to the beach. Y. Flower said the language in both agreements confirmed that access be granted but failed to identify where the specific beach access was.

Subsequent to the agreements of 1989, Y. Flower said a special management area (SMA) permit was filed with the county to construct a 4 foot wide concrete path around the Honokahua burial site and to Makaluapuna Point. Y. Flower said the concrete path was never constructed. Y. Flower said an SMA permit was filed with the county on September 18, 2006 for the current proposed coastal trail. Y. Flower said the proposed coastal trail is intended to be a low impact development project. Y. Flower said the portion of the trail which was proposed to run through the Honokahua burial site would not contain a concreted pathway and would only be delineated by landscaping and vegetation. Y. Flower said 3 foot wide basalt stones were proposed to be imbedded into the surface to delineate a pathway for the portion of the trail which ran through the burial site. Y. Flower said the pathway would be landscaped with hau to limit access.

Y. Flower said Makaluapuna Point has been popularized due to publications including "Maui Revealed." Y. Flower said tourists went to Makaluapuna Point to view the Dragon's Teeth. L. Kuloloio wanted to know what the Dragon's Teeth was and if there was a cultural connection between the name and the area. Y. Flower was not sure if a

cultural connection existed and thought tour companies were simply promoting the area as a site destination. C. Maxwell said Dragon's Teeth should not be referenced with the development of the coastal trail. D. Hall also wanted to know what the Dragon's Teeth represented. Y. Flower thought the Dragon's Teeth may be a pointed lava formation. C. Maxwell wanted to know if the Dragon's Teeth was in the area of the *leina*, to which D. Hall said yes. Y. Flower thought the coastal trail could be utilized as an opportunity to educate visitors on the area's cultural significance.

Y. Flower said ML&P was seeking any recommendations or comments the council had pertaining to signage. Y. Flower said there were seven existing rock platforms with interpretive messages. Y. Flower showed a map of the seven existing signage platforms and another map of the proposed relocation of the signage platforms.

L. Kuloloio recognized ML&P wanted to develop a coastal trail as part of the future for Kapalua. L. Kuloloio said there was an old king's trail which circled the island of Maui. L. Kuloloio did not favor development of the proposed coastal trail and wanted to know if ML&P had records which identified the exact location of the old king's trail. Y. Flower said certain sections of the old king's trail ran through the burial site and it was her understanding that those particular sections were meant to be preserved and not intended for public access. L. Kuloloio wanted to know if Y. Flower was aware of other sections of the old king's trail, to which she answered no. L. Kuloloio wanted to know if Y. Flower was aware that burials were found along the coast and at the shoreline of section 16 of the proposed coastal trail to which she answered no. L. Kuloloio said there were thousands of burials at the Honokahua burial site which had not been disturbed.

D. Hall asked if the coastal trail targeted visitors and residents within Kapalua to which Y. Flower answered yes. D. Hall was concerned about the increased traffic that would frequent the proposed coastal trail *makai* of the Honokahua burial site. D. Hall wanted to know why the proposed coastal trail looped around *mauka* of the Ironwood development. Y. Flower said the trail was intended to stay as near to the coast as possible. Y. Flower said the residences would not allow the coastal trail to pass *makai* of the Ironwood development. D. Hall felt the coastal trail should tie into the concrete walkway *makai* of the Ritz Carlton so the coastal trail would pass *mauka* and around the Honokahua burial site. D. Hall said the *leina* at Makaluapuna Point was an area where the spirits leaped into the netherworld. D. Hall thought rerouting the coastal trail around the burial site would help preserve the area's cultural significance. D. Hall did not think it was culturally appropriate to have a coastal trail run through the Honokahua burial site. C. Maxwell also wanted the coastal trail rerouted around the Honokahua burial site.

Clifford Naeole the cultural consultant for Kapalua thought the coastal trail could work by being rerouted to tie into the existing concrete pathway *mauka* of the burial site. C. Naeole was not sure if the coastal trail was subject to any specific mandates. C. Maxwell thought that any mandates the coastal trail may be subject to, would be for the preservation of the *leina* and the burial site. C. Maxwell thought the coastal trail would

be easier to manage with respect to security, if the trail was closer to the Ritz Carlton Hotel. C. Naeole had a hard time understanding why landowners are able to walk through the burial site, but people were not allowed to walk through a landowner's property.

S. Fisher wanted to know the approximate number of people that currently frequented the lower section of the Honokahua burial site. C. Naeole estimated the site to be frequented by 50-80 people a day. C. Naeole said the Ritz had maintained a heavier presence of security around the burial site to prevent intrusion onto the burial site. L. Kuloloio said there were many unmarked burials which were present up to the shoreline of the Honokahua area. L. Kuloloio thought it would be best to reroute the coastal trail *mauka* and around the Honokahua burial site.

W. Frampton thought there had to be a way to address lateral access issues. Thorn Abbott said the coastal trail could not run *makai* of the Ironwood development because of safety and liability issues. T. Abbott said large developments were required to provide public access to the shoreline approximately every 1500 feet. T. Abbott thought there was a law which allowed the county to seize property up to 10 foot in width to provide safe lateral access.

K. Kapu wanted to know if the coastal trail went around the Ironwood development as a result of the landowners or the county. T. Abbott was not sure. C. Maxwell wanted T. Abbott to investigate the answer to K. Kapu's question. C. Maxwell asked T. Abbott if the county recognized the Honokahua burial site as a cultural reserve. C. Maxwell said the burial site was recognized by the state and thought state laws would supersede county ordinances. K. Kapu wanted to know if the coastal trail would eventually restrict public access. K. Kapu did not want the coastal trail to be used as device to cut off beach access from the public. T. Abbott said the public is guaranteed shoreline access throughout the island of Maui. K. Kapu had seen similar projects on Oahu which eventually worked legal language into plans that restricted access to residents only.

T. Abbott wanted to know if the council had any comments for the proposed spur trails. C. Maxwell wanted to know what spur trail was being referenced. T. Abbott said section 16a of the proposed coastal trail was being referenced. T. Abbott said the coastal trail would be advertised as a place to visit and wanted to know if the council had any recommendation for managing the individuals that would visit the area. C. Maxwell thought it was a cultural insult to allow people to frequent the area where the *leina* existed.

L. Kuloloio wanted the board of directors for Kapalua to attend the MLIBC meeting. L. Kuloloio said agreements to protect and preserve the burials at Honokahua were in place and documented. L. Kuloloio felt it was disrespectful for ML&P to ask the council for recommendations on a proposed coastal trail which would run through the Honokahua burial site after all the hard work and effort it took to preserve the area. L. Kuloloio felt the coastal trail was economically motivated and did not like the future vision of what the coastal trail could lead to. L. Kuloloio was frustrated and felt it was

very disrespectful to refer to Makaluapuna Point, a culturally significant area as the Dragon's Teeth. K. Kapu said the information referring to the Dragon's Teeth was incorrect and all reference to the Dragon's Teeth should be deleted. K. Kapu suggested consulting with the *kupunas* of the area to document the accurate names and the accurate history of Kapalua. K. Kapu did not want the media and other tour companies to misinterpret and misinform people about the names and history of Kapalua.

C. Maxwell said D. Hall, L. Kuloloio and himself were directly involved with preserving the Honokahua burial site which made the issue very sensitive. C. Maxwell said all the state laws pertaining to burials were the result of what had transpired at Honokahua. T. Abbott acknowledged there was an issue with people currently frequenting the burial site and Makaluapuna Point. C. Maxwell wanted to know who was responsible for managing the people that frequented Makaluapuna Point. K. Kapu also agreed that the *leina* at Makaluapuna Point was culturally significant. K. Kapu did not want any publications referencing the *leina* which may encourage people to visit the site.

R. Churchill said the lower section of coastal trail *makai* of the burial site would be deleted and rerouted. R. Churchill said ML&P was not promoting the Dragon's Teeth at Makaluapuna Point. R. Churchill said tour companies were promoting the Dragon's Teeth and ML&P thought the proposed spur trail to Makaluapuna Point could be a way to manage the people that visited the area. L. Kuloloio thought entirely new agreements needed to be worked out in light of the new [coastal trail] vision being proposed. L. Kuloloio thought the entire Honokahua burial site may need to be fenced to protect against intrusions.

C. Maxwell wanted to know who owned Makaluapuna Point. R. Churchill said the point was owned by ML&P. K. Kapu suggested ML&P as the landowner of Makaluapuna Point, draft a letter to tour companies informing them to stop promoting the area as a site destination. C. Naeole said he tried to address one of the parties responsible for publicizing Makaluapuna Point.

T. Abbott said he wanted to add the council's comments to the environmental assessment because the commenting period had passed. T. Abbott said the council's comments would be addressed in the final environmental assessment. C. Maxwell expected a copy of the final environmental assessment. C. Maxwell said the environmental assessment should clearly state the council's position to protect the *leina* at Makaluapuna Point and the Honokahua burial site. L. Kuloloio was upset that the council was not made aware that their comments would be included in the environmental assessment because the commenting period had elapsed.

*S. Fisher left the meeting at 12:00 pm.*

**D. Hall moved and L. Kuloloio seconded, "to defer item E [BURIAL TREATMENT AND PRESERVATION PLAN FOR STATE SITE 50-50-16-5421 KAUPU NIUMALU AHUPUAA, HANA DISTRICT, ISLAND OF MAUI, TMK (2) 1-7-003: 073 AND 016] under business until the council's next regularly scheduled meeting.**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

**F. CASE UPDATES / OTHER INADVERTENT DISCOVERIES**

**Information / Recommendation:**

*Council member, E. Kaahui left the meeting at 12:15 pm. W. Frampton had to recuse from discussion of the first item under F of the agenda. Deputy attorney general, Vince Kanemoto said the first item under F [Inadvertent Burial Discovery at Consolidated Baseyards, Waikapu Ahupuaa, Wailuku District, Island of Maui, TMK: 3-8-7: 89, 143, and 144] could not be discussed because the council would lose quorum if W. Frampton recused himself from the meeting.*

**Inadvertent Burial Discoveries at Victor Campos Parcel, Wailuku Ahupuaa, Wailuku District, Island of Maui, TMK: 3-4-39: 79**

**Information/Recommendation:** Update on the inadvertent discoveries.

M. Dega of SCS introduced himself and said he visited the Campos site to inspect what had occurred. M. Dega said the wall had been backfilled so that sand was even with the top of the wall. M. Dega estimated the burials behind of the wall to be covered by 30 feet of sand. M. Dega said it was not possible to reach the burials 2 and 4 through manual excavation. M. Dega thought the burials could only be reached by demolishing the retaining wall. M. Dega said he could not see any skeletal remains of burial 3 on the surface of the dune. M. Dega said there was cultural deposit on the top of the dune near the location of burial 3. M. Dega said Victor Campos did not complete construction of the retaining wall because he was told to stop by the state. M. Dega said V. Campos told him the retaining wall could be completed in a day. M. Dega thought the best thing for V. Campos to do was complete construction of the retaining wall and backfill the wall to stabilize the dune. M. Dega said the scattered remains which had collapsed from burial 3 had been scooped up with a pile of sand and used to backfill the wall. C. Maxwell wanted to know who scooped the sand to backfill the wall to which M. Dega said V. Campos. C. Maxwell was frustrated because V. Campos was doing what ever he wanted. C. Maxwell said the remains should not have been touched.

C. Maxwell wanted to know if legal action could be taken against V. Campos. V. Kanemoto said a full blown investigation should be initiated in order to gather all the facts at which time V. Kanemoto could make a determination as to whether or not legal action should be pursued. C. Maxwell was worried other people may follow the same path as V. Campos. C. Maxwell wanted to know how a full blown investigation could be initiated. V. Kanemoto suggested the council ask SHPD to facilitate an investigation through DOCARE (Division of Conservation and Resource Enforcement). V. Kanemoto said DOCARE would submit the results of their investigation to SHPD which would forward the information to the attorney general's office. C. Maxwell asked if there was a statute of limitations to file a case against V. Campos. V. Kanemoto said statute of limitations applied to criminal cases, but not necessarily civil cases. V. Kanemoto



reiterated the importance to have all the facts before a determination could be made on whether or not legal action was warranted.

L. Kuloloio thought the completion of the retaining wall was one of the main issues at the Campos property. L. Kuloloio wanted to know if V. Campos was in compliance with county codes and ordinances. L. Kuloloio thought what had been done, was done and felt the *iwi* should be left alone. L. Kuloloio was against removing the backfilled sand in fear of exposing more burials. W. Frampton wanted M. Dega to create a timeline of the sequence of events which transpired at the Campos property. C. Maxwell was frustrated with V. Campos and the things he had done over the course of four years.

L. Kuloloio thought the back of the retaining wall could be capped with concrete to preserve the burials. L. Kuloloio wanted M. Dega to give the council an update at the next MLIBC meeting. C. Maxwell wanted to know if V. Campos still had plans to build a parking garage. M. Dega was not sure and said there was language in previous plans which required V. Campos to come before the council should future construction plans develop. C. Maxwell wanted to know what the council thought about capping the top of the wall with concrete. D. Hall did not think the council had other options. C. Maxwell told M. Dega to inform V. Campos to cap the top of the retaining wall with concrete. M. Kirkendall said V. Campos needed a monitor present when capping the retaining wall. The council asked M. Kirkendall if she could monitor the project. M. Kirkendall said she would be happy to help.

**W. Frampton moved and L. Kuloloio seconded, “to defer the last item under Case Updates to the next council meeting.”**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

**K. Kapu moved and L. Kuloloio seconded, “to adjourn the meeting at 12:45 pm.”**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

Respectfully Submitted,

Kawika Farm  
Clerk Stenographer II  
State Historic Preservation Division